

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

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|---|---|----------------------------------|
| Abraham Hernandez, # 07894-424, |) | C/A No. 9:06-0318-CMC-GCK |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | OPINION AND ORDER |
| |) | |
| Martha Jordan, Warden of FCI- Talladega; |) | |
| D. B. Drew, Warden of FCI-Talladega; |) | |
| M. T. Bragg, Warden of FCI-Talladega; and |) | |
| Officer Fals, Correctional Officer at FCI- |) | |
| Talladega Special Housing Unit, |) | |
| |) | |
| Respondents. |) | |
| |) | |

Petitioner, proceeding *pro se*, filed a Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241. Petitioner is a federal inmate at the Williamsburg Federal Correctional Institution in Salters, South Carolina. The § 2241 action against three wardens and a correctional officer at the Talladega Federal Correctional Institution in Talladega, Alabama, arises out of an alleged inmate attack upon Petitioner in May 2004. In accordance with this court's order of reference and 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02(B)(2)(c), this matter comes before the court with the Report and Recommendation of United States Magistrate Judge George C. Kosko.

The court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b). The court reviews only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) stating that “in the absence of a timely filed objection, a district court need not conduct *de novo* review, but instead must ‘only satisfy itself that there is no

clear error on the face of the record in order to accept the recommendation.”” (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Based on his review of the record, the Magistrate Judge has recommended that the action be *dismissed without prejudice and without requiring Respondents to file a return*. The Magistrate Judge advised Petitioner of his right to file objections to the Report and the possible consequences if he failed to do so. Petitioner has filed no objections and the time for doing so has expired.

After reviewing the Petition, the record, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court finds no clear error. Therefore, it is

ORDERED that this action is *dismissed without prejudice and without requiring Respondents to file a return*.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
March 20, 2006

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